

UNITED STATES BANKRUPTCY COURT
FOR THE MIDDLE DISTRICT OF NORTH CAROLINA
DURHAM DIVISION

IN RE:)	Bankruptcy Case Number
Efrain D. Barnet,)	12-80111
Debtor.)	Chapter 13
)	
)	
)	

AMENDED MOTION FOR CONTEMPT & SANCTIONS
11 U.S.C. § 524(a)

NOW COMES Steven Kent Taylor, Attorney for the above-captioned Debtor, and hereby moves the Court for an order holding BSI Financial as servicer for US Bank Trusts National Association, as trustee of the Igloo Series III Trust, hereinafter (“Lender”) in contempt of violation(s) of the Discharge Injunction pursuant to 11 U.S.C. §524(a), and for sanctions; and, in further support thereof submits unto the Court the following:

1. On January 24th, 2012, the Debtors filed a Voluntary Petition for relief under Title 11, Chapter 7 of the United States Code. Richard M. Huston II was duly appointed Chapter 13 Trustee.
2. Lender was the secured holder of a 1st priority lien on real property of the Debtor located at 7145 Heather Ridge Dr., Jonesboro, GA.
3. Lender entered into a Modification agreement with Debtor, such agreement being approved by and order of the court on January 22nd, 2013.
4. Lender was paid through the Chapter 13 conduit payment program pursuant to this order from January 22nd, 2013 to the end of payments to the Chapter 13 Trustee as expected pursuant to the plan.
5. Lender acknowledged receipt of their interest in the debt of the Debtor through the transfer of claim entered on September 21st, 2017.
6. Notice of cure payment was filed by the Trustee on October 16th, 2017 and was responded to by the prior Lender that all arrearages were paid in full and the debt was current.
7. A Notice of Mortgage payment change was entered by the Lender on December 11th,

2017. Said Mortgage payment change reflected a change in escrows but did not acknowledge a principal, interest and term change as changed by the modification order described above.

8. Trustee through letter issued on December 4th, 2017 instructed Debtor to begin making payments of \$654 per month to lender pursuant to the modification agreement.

9. Debtor has continued to make payment according to said direction with varying degrees of acceptance by Lender.

10. Lender has caused notifications to the credit bureaus to be entered against Debtor despite Lender's knowledge of Debtor's discharge pursuant to section 11 U.S.C § 524(a).

11. As a result of Lender's actions or inactions, the Debtors are entitled compensatory damages, if any, in an amount to be determined by the Court.

12. The Debtors are entitled to punitive damages in an appropriate amount to be determined by the Court. The undersigned counsel requests that such sanctions include reasonable attorney's fees, and related expenses, incurred in dealing with this matter.

WHEREFORE, the Debtors respectfully request that this Court:

1. Hold Lender in contempt for violation of 11 USC 524(a) Discharge Order.
2. Award to the Debtors sanctions, including actual, nominal and punitive damages pursuant to 11 U.S.C. § 524(a).
3. That such sanctions include an award of reasonable attorney's fees and related expenses;
4. That the cost of this matter be taxed to Lender;
5. For any further relief that the Court deems appropriate.

Respectfully submitted on this, the 11th day of July, 2019.

/s/Steven Kent Taylor

STEVEN KENT TAYLOR

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UNITED STATES BANKRUPTCY COURT
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IN RE:
Efrain D. Barnet

Case No: B-12-80111 C13D

CERTIFICATE OF SERVICE

THIS IS TO CERTIFY that the undersigned has served a copy of the **MOTION FOR CONTEMPT& SANCTIONS, 11 U.S.C. § 524(a)** by mailing a copy of same by first class U.S. mail, postage prepaid, certified mail or by ECEMF Electronic Mail to the following parties of interest as shown below:

Parties served by ECEMF

Richard M. Hutson, III
Durham Division
3518 Westgate Dr., Ste. 400
Durham, NC 27707

William P. Miller
Middle District of NC
101 S. Edgeworth Street
Greensboro, NC 27401

Parties served by First Class Mail, Postage Prepaid

Attn: Manger or Agent
BSI Financial Services
314 S. Franklin Street
Titusville, PA 16354

Attn: Officer
US Bank Trust NA C/O BSI Financial Services
1425 Greenway Dr.
Ste 400
Irving, TX 75038

Attn: Officer
US Bank National Association
9400 SW Beaverton-Hillsdale Highway
Beaverton, OR 97005

Attn: Officer

US Bank National Association
425 Walnut St.
Cincinnati, OH 45202

John W. Fletcher, III
Henderson Nystrom, Fletcher & Tydings, PLLLC
831 East Morehead St., Ste. 255
Charlotte, NC 28202

Efrain Barnet
915 Northcreek Drive
Durham, NC 27707

Parties served by Certified Mail

Attn: Officer

US Bank National Association
9400 SW Beaverton-Hillsdale Highway
Beaverton, OR 97005

Attn: Officer

US Bank Trust National Association
Trustee Igloo Series III Trust
c/o BSI Financial Services
1425 Greenway Drive
Irvin, TX 75038

This the 11th day of July, 2019

/s/Steven Kent Taylor
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